

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SUSAN Z. WHATLEY,

Plaintiff,

V.

DEIRDRE WRIGHT, *et al.*,

Defendants.

CASE NO. 2:20-CV-318-WKW
[WO]

ORDER

On August 4, 2020, the Magistrate Judge filed a Recommendation to which no cognizable objections have been filed. (Doc. # 15.) While the docket sheet indicates that Plaintiff filed an objection to the Magistrate Judge’s recommendation (Doc. # 16), the court construes this entry as a “Notice of Filing Rule 32 Petition.” Upon an independent review of the record, it is ORDERED that the Recommendation is ADOPTED and that this action is DISMISSED without prejudice. It is further ORDERED that Plaintiff’s motion to proceed without prepayment of fees (Doc. # 2) is DENIED as moot. Final judgment will be entered separately.

A certificate of appealability will not be issued. For a petitioner to obtain a certificate of appealability, she must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This showing requires that

“reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation and internal quotation marks omitted). And, where a petition is denied on procedural grounds, she “must show not only that one or more of the claims [she] has raised presents a substantial constitutional issue, but also that there is a substantial issue about the correctness of the procedural ground on which the petition was denied.” *Gordon v. Sec’y, Dep’t of Corrs.*, 479 F.3d 1299, 1300 (11th Cir. 2007) (citations omitted) (alteration added). “A ‘substantial question’ about the procedural ruling means that the correctness of it under the law as it now stands is debatable among jurists of reason.” *Id.*

Because reasonable jurists would not find the denial of Petitioner’s § 2254 motion debatable, a certificate of appealability is DENIED.

DONE this 11th day of September, 2020.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE